

The Bid Procedures

Bid Deadline. 60 days from entry of an order approving retention of the Broker, unless extended by the Debtor with Lender's written approval.

Auction. On a date to be set, but no later than five (5) business days after the Bid Deadline

Sale Hearing. On a date to be set, but no later than five (5) business days after the Auction.

Closing. Within fourteen (14) days after completion of the Auction and entry of an order approving the Sale to the Successful Bidder. Time is of the Essence against the Successful Bidder, or its assigns, and the failure of the Successful Bidder, or its assigns, to close for any reason including his, her, or its, failure to pay the balance of the Purchase Price on the Closing Date, will result in the Debtor retaining the Deposit as liquidated damages and the termination of the Successful Bidder, or its assigns, right to acquire the Assets under these terms and conditions of sale.

Assets. The Property together with related rights as set forth in the Stalking Horse Contract is being sold and delivered "AS IS", "WHERE IS", "WITH ALL FAULTS" without any representations or warranties.

Potential Bids. A competing Bid in writing via email setting forth proposed purchase price and terms should be sent to Debtor's counsel, Goldberg Weprin Finkel Goldstein LLP, 125 Park Avenue, 12th Fl. New York, New York 10017, Attn: Kevin Nash (knash@gwfglaw.com); with a copy to counsel for the Lender, McMichael Taylor Gray LLC, 3275 W. Hillsboro Blvd., Ste. 312, Deerfield Beach, FL 33442, Attn: Andrew Kamensky, Esq. (akamensky@mtglaw.com); and the Broker, Northgate Real Estate Group, Attn: Greg Corbin (ggreg@northgatereg.com).

Qualification of Bidders. To be eligible to participate in the Auction, each Potential Bidder must provide the following (collectively, the "Participation Requirements"):

- a. An initial overbid in the amount equal to the Stalking Horse Bid plus \$50,000. In addition to all overbids, the Successful Bidder will be responsible to pay the Broker a Buyer's premium as set forth below;
- b. Disclose the identity of the person or entity that is bidding for the Property (the "Bidder") with appropriate contact information and counsel;
- c. Financial information which fairly and reasonably demonstrates the source of the Bidder's ability to close on the purchase of the Property in the amount of its bid;

- d. Contain a signed acknowledgment that the Bidder will be bound by its bid and the representation and statements made in the Qualifying Statement until such bid is rejected by the Debtor;
- e. A good faith deposit in the amount of ten (10%) percent of its bid in immediately available funds (as may be increased pursuant to paragraph (f), the “Deposit”);
- f. A signed acknowledgment that if the Debtor determines the Bidder to be the Successful Bidder, subject to the approval of the Bankruptcy Court, it will, within three (3) business days after the Auction, increase the initial Deposit submitted with its bid as necessary to an amount equal to ten (10%) percent of its final bid; and
- g. Execute an Asset Purchase Agreement substantially in the form of the Stalking Horse Contract annexed to the Motion as Exhibit “A”, subject to such modifications as may be made with the consent of the Debtor and further acknowledging that any due diligence deemed required by the Bidder has been completed.

Qualified Bidders and Bids. Potential Bidders who have satisfied the Participation Requirements will be deemed “Qualified Bidders.” The Lender is deemed a Qualified Bidder and is entitled to credit bid up to and including the total amount of its claim as of the Auction Date, without the need for any deposit or fulfilling the other requirements for a Potential Bidder to be a Qualifying Bidder.

Auction Participation. Unless otherwise agreed to by the Debtor, only Qualified Bidders, and their legal or financial professionals are eligible to attend or participate in the Auction.

Auction. The Auction will be conducted virtually by counsel for the Debtor in conjunction with the Broker. A link will be provided to Qualified Bidders at least 24 hours prior to the commencement of the Auction.

The Auction shall be governed by the following procedures:

- a. Each Qualified Bidder shall be required to confirm under oath that it has not engaged in any collusion with respect to the bidding.
- b. In addition to the winning bid, at Closing the Successful Bidder shall pay a four (4%) percent Buyer’s Premium to the Broker for the Broker’s fees and expenses, except that the Buyer’s Premium for a credit bid by the Lender shall be one (1%) percent commission by

the Lender based upon the first \$1.25 million and three quarters of one (.75%) percent of the gross purchase price thereafter.

- c. The bidding shall be in increments of at least \$50,000 after the initial overbid. The Debtor, in the exercise of its reasonable business judgement, may adjust the amount of the successive bid increments at the Auction. The Auction will be conducted so that Lender and each other Qualified Bidder will be informed of the previous bid.
- d. The Qualified Bidders each expressly acknowledge and agree that in the event that another person or entity is selected as the Successful Bidder but fails to timely tender such additional deposit to the Deposit as required by the applicable Asset Purchase Agreement (the “Additional Deposit”), close on the sale transaction, or otherwise perform its obligations under its applicable Asset Purchase Agreement and an Order approving these Bid Procedures, the Debtor may contact the second highest or best bidder (the “Second Bidder”) to sell the Assets to the Second Bidder without any further notice or further approval of the Bankruptcy Court, without giving credit to the Second Bidder for the initial Successful Bidder’s Deposit or Additional Deposit, which deposit(s) shall be forfeited by the initial Successful Bidder, and upon such other terms and conditions as the Debtor deems appropriate in its reasonable business judgment. Thereafter, the Second Bidder shall be deemed for all purposes to be the Successful Bidder and shall comply with the terms, conditions, and obligations set forth herein and the related documents and order of the Bankruptcy Court.
- e. The Deposit shall be nonrefundable except that any Deposit submitted by the Qualified Bidders who do not become either the Successful Bidder or the Second Bidder shall be returned as soon as reasonably practicable following the Auction.
- f. The Lender retains all rights to credit bid the full amount of its claim, subject to the Stalking Horse Bid, and the overbid and buyer’s premium requirements set forth herein.

Modifications. These Bid Procedures may be modified at any time by the Debtor in consultation with the Broker and the Lender. The Debtor shall provide reasonable written notice of any modification to all creditors of the Debtor and parties identified by the Broker as potential bidders.